
EXHIBIT 3

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

THE WORLD LEADERSHIP PROGRAM INSTITUTE,
a District of Columbia not for profit organization

Plaintiff,

v.

Case No. 15-655-CK

MARK TESSLER, SHERMAN JACKSON,
NANCY BURNS, and DAVID HOWELL
jointly and severally

Defendant.

./

Honorable David Swartz, Circuit Judge
Motion for Summary Disposition
Wednesday, October 14, 2015 - Ann Arbor, Michigan

APPEARANCES:

FOR THE PLAINTIFF:

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FOR THE DEFENDANT:

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WITNESSES:

PAGE:

None.

EXHIBITS:

MARKED:

None.

1 Ann Arbor, Michigan

2 Wednesday, October 14, 2015 - 1:41 p.m.

3 THE CLERK: Number one, World Leadership Program
4 Institute versus Nancy Burns, case number 15-655CK.

5 MR. TEICHER: Good afternoon, Your Honor, Mark
6 Teicher for defendant, and this is Margaret Cone
7 representative of the plaintiff.

8 THE PLAINTIFF: Plaintiff.

9 MR. TEICHER: Plaintiff.

10 THE COURT: Plaintiff.

11 THE PLAINTIFF: Right.

12 MR. TEICHER: This morning I had a case where I
13 was defendant.

14 THE PLAINTIFF: Over?

15 MR. TEICHER: Yes, sir.

16 MR. BOURQUE: Good afternoon, Your Honor, Tom
17 Bourque on behalf of defendants Mark Tessler, Sherman
18 Jackson, David Howell, and Nancy Burns.

19 This is the time and place we have four motions
20 for summary disposition, one on behalf of each of the
21 individual defendants. There's also a motion for
22 protective order for Mr. Howell but I presume you'd prefer
23 to deal with the summary dispositions --

24 THE COURT: Yes.

25 MR. BOURQUE: -- so that we can decide whether

1 that's necessary.

2 THE COURT: Please.

3 MR. BOURQUE: These have been extensively
4 briefed. Each of the individual defendants has filed a
5 motion. They are primarily similar because the Complaint
6 alleges four causes of action. One for breach of contract
7 but that's only against Jackson and Tessler. One for
8 fraud against all four of the defendants. They claim for
9 promissory estoppel against all of the defendants and a
10 claim for unjust enrichment against all of the defendants.

11 Those defendants have individual defenses to
12 each of those claims that we've set forth in our brief but
13 I'm not going to go through all of those because there is
14 one unified issue that is a defense for all four of them
15 and that is that the plaintiff doesn't have standing to
16 bring this case because the plaintiff did not exist at the
17 time of any of the alleged actions that are -- have
18 claimed to have taken place.

19 The plaintiff is the World Leadership Program
20 Institute which is a District of Columbia not for profit
21 organization. The -- I don't think there's any dispute
22 that it didn't exist as that entity as a District of
23 Columbia organization until October 15, 2010. None of the
24 allegations are relating to any of the defendants go
25 beyond August of 2010, that's the very latest that there's

1 anything that's even mentioned. In fact, the last sort of
2 action that anybody took was when the University of
3 Michigan sent the remaining money in grant back to the
4 United Arab Emirates in July of 2010. So, it's our
5 position pretty simply that the plaintiff didn't exist
6 therefore it couldn't have obtained any rights or there
7 has no rights that existed.

8 None of the defendants could have damaged the
9 plaintiff because it didn't exist, and it simply can't
10 transfer rights to this new entity because there's no
11 entity to assign the rights from. And in -- it doesn't
12 appear that there's any question when the D.C. corporation
13 started, the plaintiff claims now that the D.C.
14 corporation, the plaintiff now, had a predecessor entity
15 and that somehow those entities combine and that the
16 actions supposedly against the previous entity would
17 therefore transfer to the present plaintiff.

18 We don't think there's a disputed issue of fact
19 as a result on those issues for the following reasons: the
20 articles of, in the District of Columbia, don't show any
21 predecessor entity, don't show anything that would even
22 suggest that there was a predecessor entity and don't
23 suggest the predecessor entity that the plaintiffs are now
24 claiming which is the East West Learning Initiative, it's
25 two I's. Sorry, I can't remember what exactly it's

1 called. That -- there was a corporation set up in
2 Michigan back in 2008, I believe, called the East West
3 Learning Initiative, something -- Institute, I believe and
4 the corporate records which we've attached from the state
5 of Michigan show that there's the articles don't suggest
6 the words World Leadership Program or World Leadership
7 Program Institute, doesn't exist anywhere in those
8 documents and they haven't shown any that did, and that in
9 January of 2011, after all of this occurred, Ms. Cone,
10 who's apparently here in the courtroom today filed a
11 dissolution request with the state and in that said that
12 the entity had never done any business, had never actually
13 started operations. The plaintiff claims that there were
14 certain things that this East West Learning Initiative
15 Institute did but they haven't actually provided any
16 evidence in the record for any of those things. They
17 describe tax ID numbers for various things, they don't
18 show how those in any way connected with World Leadership
19 Program Institute. And, there's nothing in any of the
20 records that were attached to this Complaint and they were
21 extensive with emails, et cetera, that ever mentioned the
22 plaintiff or that ever mentioned East West Learning
23 Initiative Institute so, neither of those entities are
24 mentioned in any of the documents that were attached to
25 the Complaint. East West wasn't mentioned anywhere in the

1 allegations, and there's no record connection between the
2 two.

3 So, to make it as simple as possible is that,
4 there can't be a cause of action that arises for an entity
5 that doesn't exist yet. And, they can't -- that entity
6 can't be damaged if it doesn't exist yet. And there is no
7 evidence that this entity, that is the present plaintiff,
8 existed during any of the timeframe when the actions that
9 the defendants are alleged to have taken, occurred.

10 And, for that reason, we think that as to all
11 four defendants is a simple solution is that the plaintiff
12 doesn't have standing to make any of those four claims
13 against two of the defendants and three claims against the
14 other defendants.

15 And, if the Court has any questions about any of
16 the things that are in the briefs, I will be happy to
17 answer that.

18 THE COURT: Thank you.

19 MR. TEICHER: Your Honor, defendant is correct
20 in that the East West Learning Initiative Inc. was in fact
21 a properly documented 501(c)3 Michigan during this time
22 that in fact Margaret Cone, who's a licensed Michigan
23 attorney, was living in Ann Arbor and in Michigan all
24 during that time that the East West Learning Initiative
25 Inc. got a tax ID number, got its 501(c)3 status from the

1 IRS and in fact, in her moving to Washington D.C., she was
2 advised to set up a new corporation because she moved to
3 D.C. she used the same, she was able to transfer -- the
4 IRS approved the same taxpayer ID number because it was
5 doing the same thing to World Leadership Program when she
6 filed it as a D.C. corporation. And, the board members
7 are the same. Margaret Cone who was the president of
8 both, is the same. The taxpayer identification number was
9 the same. It was the same entity with everything
10 transferred; bank accounts, everything and again, the
11 principle reason was that she had moved to D.C. and was
12 operating out of Washington D.C. at that point and in
13 fact, everything was properly done and although the name
14 didn't exist when this happened it was in fact, everything
15 was transferred and moved on to the new corporation which
16 is our plaintiff here.

17 THE COURT: Thank you.

18 Plaintiff filed -- plaintiff WLP filed its
19 second lawsuit in Michigan against defendants for various
20 claims including breach of contract, promissory estoppel,
21 fraud, and unjust enrichment. And prior to federal court
22 action filed by plaintiff against the University of
23 Michigan and the individual defendants for unlawful
24 deprivation of property was dismissed earlier this year
25 pursuant to the federal court's finding that plaintiffs

1 claims were, "...clearly barred by the statute of
2 limitations."

3 Defendants filed four separate, but similar,
4 motions where summary disposition pursuant to MCR 2.116
5 (c)(8) and (10), seeking dismissal with plaintiff's
6 complaint, the motion filed under MCR 2.116(c)(8) tests
7 the legal sufficiency of the claims. The motion may not
8 be supported with documentary evidence, however, whenever
9 a claim where defense is based on written instruments that
10 are attached to pleadings are referenced by the parties in
11 their pleadings pursuant to MCR 2.113(F)(2) -- (f)(1) and
12 (2) the written instruments are incorporated into a
13 considered part of the pleadings. Laurel Woods Apartments
14 versus Najah Roumayah, 274 Mich.App. 622, 635. Under
15 subsection (c)8 the Court must determined solely based on
16 the pleadings whether plaintiff's claims are so clearly
17 and enforceable as a matter of law that no factual
18 development could establish the claims and justify
19 recovery.

20 All factual allegations in the -- in support of
21 the claims as well as any reasonable inferences or
22 conclusions which may be drawn from the facts are accepted
23 as true and are construed in a likeness favorable to the
24 non moving party, Maiden versus Rozwood 461 Michigan 109,
25 119.]Defendants present in their separate briefs a

1 common argument that plaintiff's complaint is properly
2 dismissed because, "...the plaintiff entity didn't not
3 exist at the time of the alleged contract." In support of
4 the argument, defendants attach evidence of public records
5 demonstrating as plaintiff apparently concedes, the
6 plaintiff was not in existence until October 2010, well
7 after the events complained of came to a close on or about
8 July 2010.

9 Defendants present further proof that the
10 Michigan corporation relied on by plaintiff was formed in
11 2008 and there's no proof of a formal name change filed
12 after that date, and that the corporation was formally
13 dissolved on or about January 2011.

14 In response to the defendants argument that
15 plaintiff entity is no standing, plaintiff argues that it
16 is proper party and, "... has the legal basis to bring
17 this action" because, "...plaintiff is a viable nonprofit
18 corporation that existed prior to and during the
19 activities in question as a Michigan nonprofit
20 corporation, the East West Learning Initiative Inc.
21 headquartered in Washington D.C."

22 Further, plaintiff explains without benefit of
23 accompanying proof that in 2009 there was apparently a
24 name change but that, "...the program remained under the
25 same nonprofit organization umbrella of the East West

1 Learning Initiative Inc."

2 Pursuant to MCR 2.116(c)(8) and more
3 specifically, subsection 5 and based on the parties'
4 pleadings, more than 60 pages of attachments, the
5 arguments presented in taking judicial notice of other
6 submitted public records that the plaintiff was not, and
7 has never been a proper and viable entity at all times
8 relevant to the allegations in the Complaint.

9 In response to the motions, plaintiff has failed
10 to provide any proof that it is and was a viable entity at
11 all times relevant or that there is or was any connection
12 between the alleged Michigan entity that was dissolved
13 prior to the filing of this lawsuit, and plaintiff
14 sufficient to establish standing.

15 Further, the Court determines that plaintiff has
16 deliberately and blatantly misrepresented its status to
17 the parties and to the Court. Plaintiff's Complaint
18 states on page three, paragraph eight only that it is a
19 District of Columbia nonprofit organization and fails to
20 even mention what plaintiff argues and confirms in its
21 brief that the real party in interest is and was a
22 dissolved Michigan nonprofit corporation identified as the
23 East West Learning Initiative Inc. that was according to
24 plaintiff the entity that, "...received the taxpayer
25 identification number and opened a bank account at the

1 University of Michigan Credit Union."

2 There is no proof whatsoever that plaintiff has
3 or ever did have any actual legal and viable connection to
4 the actual entity or real party and interest that was in
5 involved in the events that took place between the parties
6 prior to 2010. Instead the proofs show that plaintiff did
7 not even exist prior to October 2010 and that the real
8 party in interest was formally dissolved as a corporation
9 in 2011 prior to the filing of this lawsuit in 2015.

10 For the reasons stated, the Court declines
11 plaintiff the opportunity to amend its pleadings, MCR
12 2.116(i)(5) provides that, "...if the grounds asserted in
13 the motion for summary disposition are based on subsection
14 2.116(c)(8) the Court shall give the parties an
15 opportunity to amend their pleadings as provided by MCR
16 2.118 unless the evidence then before the Court shows that
17 an amendment would not be justified."

18 For the reasons stated by defendants, the
19 motions for summary disposition are granted and
20 plaintiff's Complaint is dismissed with prejudice in its
21 entirety. In light of the Court's decision, the Court
22 does not have to reach or consider the defendants'
23 arguments on the remaining claims or motions.

24 The Court grants defendants' request for
25 sanctions against plaintiff under MCR 2.114(f) for filing

1 a frivolous claim and assesses costs in the amount of
2 \$5,000 to be paid forthwith.

3 You may present an order.

4 MR. BOURQUE: Your Honor, I had present -- I had
5 prepared an order simply stating that the motion for
6 granted for the reason on record --

7 THE COURT: That's fine.

8 MR. BOURQUE: -- I did not put in anything in
9 there about sanctions. I did put in that the motion for
10 protective order, which was up, was mooted.

11 THE COURT: That's correct.

12 MR. BOURQUE: But I didn't put in anything about
13 sanctions in here, so.

14 THE COURT: If you want them you can, I've
15 ordered them, if you want them then you present an order
16 under the seven day rule.

17 MR. BOURQUE: Okay. I will do that, Your Honor.

18 THE COURT: Because it clearly was, in the
19 Court's opinion, blatantly frivolous.

20 MR. TEICHER: Your Honor --

21 THE COURT: Yes?

22 MR. TEICHER: -- If I may address one thing?

23 THE COURT: Yes.

24 MR. TEICHER: As to the amount of sanctions --

25 THE COURT: Yes.

1 MR. TEICHER: -- that my thought process has
2 always been that the sanctions would be relative to the
3 attorney time or bill expended relative to this matter, so
4 I'm wondering if it would be appropriate to request the --
5 based on how much time and --

6 THE COURT: Mr. Bourque, have you expended more
7 than \$5,000 in services?

8 MR. BOURQUE: I believe so, but I don't -- I
9 would have to check my bills and see what they were, but I
10 believe so with all the briefing that's been done.

11 MR. TEICHER: Perhaps Mr. Bourque and I could
12 talk about --

13 THE COURT: Sure.

14 MR. TEICHER: -- amount, and --

15 THE COURT: That'd be fine. If you determine
16 that it was less, that you spent less than that, I'd be
17 happy to amend it to that amount.

18 All right?

19 MR. TEICHER: Yes.

20 MR. BOURQUE: Thank you, Your Honor.

21 THE COURT: Court's in recess

22 THE CLERK: All rise.

23 (At 1:57 p.m., case concluded.)
24
25

1 STATE OF MICHIGAN
2 COUNTY OF WASHTENAW)ss.
3

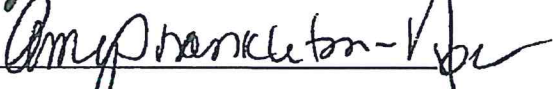
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6 proceedings in the case of THE WORLD LEADERSHIP PROGRAM INSTITUTE
7 v. MARK TESSLER, SHERMAN JACKSON, NANCY BURNS AND DAVID HOWELL on
8 October 15, 2014

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15 I also certify that I am not a relative or employee of the
16 parties involved and have no financial interest in this case.
17

18 DATED: December 1, 2015
19

20 s/ *Amy Shankleton-Novess*

21 

22 Transcription provided by:

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25